HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI D.R. DESHMUKH, J.

Misc. Appeal NO. 1396 OF 2005

APPELLANT CLAIMANT — Sohan Lal Nirmalkar, S/o Hirauram Aged about 24 yrs., R/o Village – Teela, P.S. – Gobaranawapara, Distt. - Raipur

VERSUS

RESPONDENTS NON-APPLICANTS

1. Jubaida Begum, aged about 35 yrs. Wd/o Salim Khan, R/o Belsonda, Near Station, P.S. Distt-Mahasamund (C.G.)

2. The National Insurance Co. Ltd., Division Office, Mobin Mahal, G.E.Road, Raipur (C.G.)

Present: Mr. S.C. Verma, learned counsel for the appellant.

ORAL ORDER
(Passed on 17th January 2006)

The following oral order of the Court was passed by

D.R. DESHMUKH, J. :

This is a personal injury case. The accident occurred on 15-11-2002. It was alleged in the claim application that the applicant had suffered permanent disability of fifty percent. It was strenuously contended by learned counsel appearing for the appellant that the learned MACT has ignored the disability certificate issued by the District Medical Board, Raipur. Learned counsel also contended that the learned MACT has not taken into consideration the various documents relating to medicine purchased by the appellant. However, on a careful perusal of the record of the Tribunal, we find that the disability certificate

was issued by the District Medical Board, Raipur on 16-01-2004, whereas the accident occurred on 15-11-2002. The learned MACT has, in para 13 of the award, clearly mentioned that in the absence of any medical evidence, it could not be ascertained whether the injuries mentioned in the disability certificate related to the accident or not. The learned MACT also found that in the absence of examination of the Doctor treating the claimant and taking the x-rays dt. 17-11-2003 Ex P/4 and Ex. P/5 and also in the absence of any legal proof of bills of medicine purchased, the prayer of the appellant – claimant could not be considered and awarded compensation of Rs.30,000/-.

(2) Time and again, we have reiterated that in a personal injury case, it is incumbent on the claimant to examine the medical practitioner treating him and also to lead cogent, legal and reliable evidence to prove the expenses incurred in medical expenses and degree of permanent disability suffered by the claimant. In the absence of any such proof, in our considered opinion, the learned MACT is wholly justified in rejecting the contention of the claimant and awarding compensation of Rs.30,000/-. The appeal is devoid of merit and it is accordingly dismissed. No costs.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge